CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 9

Citations Affected: IC 22-11-14.

Synopsis: Consumer fireworks regulation. Conference committee report for ESB 9. Provides that counties and municipalities may adopt ordinances to regulate the time and location for the use, ignition, or discharge of consumer fireworks. Provides that a consumer fireworks use ordinance may not limit the use of consumer fireworks on certain days during certain times of the day. Makes a conforming amendment. **(This conference committee report restores the language as it passed the Senate, removing the language relating to public safety fees collected on the sale of fireworks in Indiana. The report makes technical corrections, including use of the term "consumer fireworks" throughout.)**

Effective: Upon passage.

Adopted	Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 9 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 22-11-14-1, AS AMENDED BY P.L.187-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter and IC 22-11-14.5:

"Auto burglar alarm" means a tube that contains pyrotechnic composition that produces a loud whistle or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) milligrams, may also be used to produce a small report. A squib is used to ignite the device.

"Booby trap" means a small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

"Chaser" means a device, containing fifty (50) milligrams or less of explosive composition, that consists of a small paper or cardboard tube that travels along the ground upon ignition. A whistling effect is often produced, and a small noise may be produced.

"Cigarette load" means a small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a

cigarette containing one (1) of the pegs, a small report is produced.

"Consumer firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Consumer fireworks:

(1) include:

(A) aerial devices, which include sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines, and shells;

(B) ground audible devices, which include firecrackers, salutes, and chasers; and

(C) firework devices containing combinations of the effects described in clauses (A) and (B); and

(2) do not include the items referenced in section 8(a) of this chapter.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand held (handle fountain).

"Dipped stick" or "wire sparkler" means a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers that contain no magnesium and that contain less than one hundred (100) grams of composition per item are not included in the category of consumer fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, items referenced in section 8(a) of this chapter, and special fireworks. The following items are excluded from the definition of fireworks:

(1) Model rockets.

(2) Toy pistol caps.

(3) Emergency signal flares.

(4) Matches.

(5) Fixed ammunition for firearms.

(6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.

(7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.

(8) Indoor pyrotechnics special effects material.

(9) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

"Flitter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.

"Ground spinner" means a small spinning device that is similar to wheels in design and effect when placed on the ground and ignited, and that produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

(1) that consists of a tube up to one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;

(2) to which some type of propeller or blade device is attached; and

(3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

"Illuminating torch" means a cylindrical tube that:

(1) contains up to one hundred (100) grams of pyrotechnic composition;

(2) produces, upon ignition, a colored fire; and

(3) is either a spike, base, or handle type device.

"Importer" means:

(1) a person who imports fireworks from a foreign country; or

(2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 (2001 edition)).

"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks.

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

(1) consists of a heavy cardboard or paper tube up to two and

one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;

(2) contains up to forty (40) grams of pyrotechnic composition; and

(3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Municipality" has the meaning set forth in IC 36-1-2-11.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision.

"Retail sales stand" means a temporary business site or location where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

"Sky rocket" means a device that:

(1) consists of a tube that contains pyrotechnic composition;

(2) contains a stick for guidance and stability; and

(3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

"Special discharge location" means a location designated for the discharge of consumer fireworks by individuals in accordance with

rules adopted under section 3.5 of this chapter.

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as consumer fireworks.

"Trick match" means a kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

"Trick noisemaker" means an item that produces a small report intended to surprise the user.

"Wheel" means a pyrotechnic device that:

(1) is attached to a post or tree by means of a nail or string;

(2) contains up to six (6) driver units (tubes not exceeding one-half (1/2) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and

(3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

"Wholesaler" means a person who purchases fireworks for resale to retailers.

SECTION 2. IC 22-11-14-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) As used in this section, the term "use" means the ability of a county or municipality to regulate the days and hours when consumer fireworks may be used, ignited, or discharged.**

(b) Notwithstanding any other provision of this chapter:

(1) a county may adopt an ordinance concerning the use of consumer fireworks in the unincorporated areas of the county; and

(2) a municipality may adopt an ordinance concerning the use of consumer fireworks within the corporate limits of the municipality.

(c) An ordinance adopted under this section:

(1) may limit the use of consumer fireworks in the county or municipality;

(2) may not be more lenient than a rule adopted by a state agency concerning the use of fireworks; and

(3) may not limit the use of consumer fireworks:

(A) between the hours of 5:00 p.m. and two (2) hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9;

(B) between the hours of 10:00 a.m. and 12:00 midnight on July 4; and

(C) between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

SECTION 3. **An emergency is declared for this act.**

(Reference is to ESB 9 as reprinted March 30, 2007.)

Conference Committee Report
on
Engrossed Senate Bill 9

Signed by:

Senator Heinold Chairperson	Representative Moses
Senator Mrvan	Representative Frizzell
Senate Conferees	**House Conferees**